

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

FAIR ISAAC CORPORATION,

Court File No. 16-cv-1054 (DTS)

Plaintiff,

v.

**DEFENDANTS' PROPOSED VERDICT
FORM**

FEDERAL INSURANCE COMPANY,
an Indiana corporation, and ACE
AMERICAN INSURANCE COMPANY, a
Pennsylvania corporation,

Defendants.

DEFENDANTS' PROPOSED VERDICT FORM

In accordance with the Court's Final Pretrial Order (ECF No. 923), Federal Insurance Company and ACE American Insurance Company (collectively, "Defendants") submit the following proposed verdict form, which shows Defendants' proposed changes to the verdict form previously circulated by the Court.

Part I: FICO's Claims Against Defendants

Breach of Contract

1. Has FICO proven that Federal breached Section 3.1 of the License Agreement prior to March 30, 2016?

☐ Yes (*finding for FICO*)
☐ No (*finding for Federal*)

2. Has FICO proven that Federal breached Section 10.8 of the License Agreement prior to March 30, 2016?

☐ Yes (*finding for FICO*)
☐ No (*finding for Federal*)

INSTRUCTION: IF YOU FIND IN FAVOR OF FEDERAL ON BOTH QUESTIONS 1 AND 2, PLEASE SKIP THE REMAINDER OF PART I AND GO TO *PART II: FEDERAL'S CLAIMS AGAINST FICO*. OTHERWISE, ANSWER THE REMAINDER OF PART I, AS INSTRUCTED BELOW.

3. Has FICO proven that Federal breached Section 9.3 of the License Agreement after March 31, 2016?

- ☐ Yes (*finding for FICO*)
☐ No (*finding for Federal*)

4. If ~~you have found that~~ Federal breached the License Agreement ~~in answer to any of the above questions 1-3, please enter the amount of actual damages, if any, that FICO incurred as a result of Federal's,~~ was its breach excused by a prior breach of the License Agreement: [by FICO?](#)

\$ _____

- ☐ [Yes \(*finding for Federal*\)](#)
☐ [No \(*finding for FICO*\)](#)

Copyright Infringement Claims

5. Has FICO proven that Federal infringed FICO's copyright by continued use of Blaze Advisor after March 31, 2016?

- ☐ Yes (*finding for FICO*)
☐ No (*finding for Federal*)

6. ~~If you have found that Federal infringed FICO's copyright, please enter the amount of actual damages, if any, that FICO incurred as a result of Federal's infringement of FICO's copyright.~~

\$ _____

- ~~7~~6. Has FICO proven that ACE American infringed FICO's copyright by unlicensed use of Blaze Advisor?

- ☐ Yes (*finding for FICO*)
☐ No (*finding for ACE American*)

8. Has FICO proven that Federal is vicariously liable for ACE American's infringement of FICO's copyright interests?

☐ Yes ~~(finding for FICO)~~

☐ No ~~(finding for Federal)~~

Actual Damages

97. If you have found that ~~Ace~~ Federal has breached the License Agreement, that Federal infringed FICO's copyright, and/or that ACE American infringed FICO's copyright, please enter the amount of actual damages, if any, that FICO incurred as a result ~~of ACE American's infringement of its copyright.~~

\$ _____

Lost Profits Advisory Finding

[Defendants preserve their objection to an advisory jury finding on disgorgement.]

10. If you have found that Federal and/or ACE American infringed FICO's copyright please enter the amount of profits you believe Federal and/or ACE American received that are attributable to the infringement of FICO's copyright interests and not taken into account by computing FICO's actual damages incurred as a result of any ~~Federal's~~ infringement?

\$ _____

11. ~~If you have found that ACE American infringed FICO's copyright please enter the amount of profits that you believe ACE American received that are attributable to the infringement of FICO's copyright interests and not taken into account by computing FICO's actual damages incurred as a result of ACE American's infringement?~~

~~\$ _____~~

Part II: Federal's Claims Against FICO

~~42~~8. Has Federal proven that FICO breached Section 9.2 of the Licensing Agreement by terminating the Agreement?

☐ Yes (*finding for Federal*)

☐ No (*finding for FICO*)

~~44~~9. Has Federal proven that FICO breached the implied covenant of good faith and fair dealing when it withheld consent to Federal's continued use of Blaze Advisor after the [ACE American's acquisition of](#) Chubb Corporation-~~merger~~?

☐ Yes (*finding for Federal*)

☐ No (*finding for FICO*)

~~45~~10. If you have found that FICO breached the contract or the implied covenant in answer to either of questions 12 and 13 above, please enter the amount of damages, if any, that Federal incurred as a result of FICO's breach.

\$ _____

Date _____

Signature of Foreperson